

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SSGT JASON A. ADKINS, USAF, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 04-1453-JJF
 :
 DONALD H. RUMSFELD, :
 Secretary of Defense, et al., :
 :

MEMORANDUM ORDER

Pending before the Court is a Motion For A Privacy Act Protective Order And For Permission To File Four Exhibits In Support Of Defendants' Motion To Dismiss Under Seal (D.I. 27) filed by Defendants and a Motion To Strike Certain Exhibits Filed With Defendants' Motion To Dismiss For Failing To Comply With Fed. R. Civ. P. 12(b)(6) (D.I. 38) filed by Plaintiff. In light of the Court's decision to allow limited discovery to proceed on the issue of causation as it relates to standing, the Court declines to strike the exhibits filed with Defendants' Motion To Dismiss.

As for Defendants' request for a Privacy Act Protective Order and permission to file certain documents under seal, the Court notes that Plaintiff has not opposed Defendants' request to file Exhibits 5A, 5B and 5C under seal, and therefore, the parties agree that these exhibits should be sealed and subject to a Protective Order. In their Reply Brief to the Motion To Dismiss, Defendants also represent to the Court that the parties

agree that Defendants will submit only part of Exhibit 6B under seal, and that the parties anticipate being able to agree on the appropriate redactions. Defendants indicate that once the parties agree on the appropriate redactions, they will submit a revised exhibit 6B. Defendants also represent that "Plaintiff agrees that it will provide a release under the Privacy Act as to information concerning the plaintiff that plaintiff does not wish to be redacted." (D.I. 42 at 2 n.1.)

No further filings have been made in this case since Defendants' filed their Reply brief, and therefore, it does not appear to the Court that the revised Exhibit 6B has been submitted. In addition, the representations of Defendants in their Reply Brief suggest to the Court that the parties were in the process of resolving their disputes as to Defendants' request for a Protective Order and request to file documents under seal, and therefore, the Court will grant Defendants' Motion and require the parties to file a stipulated Protective Order to the Court within ten (10) days of the date of this Memorandum Order. If disputes remain, the parties shall file, within ten (10) days of the date of this Memorandum Order, their competing proposals for a Protective Order with the areas of disagreement highlighted, so that the Court can adjudicate the parties' disputes and enter a final order in this regard.

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiff's Motion To Strike Certain Exhibits Filed With Defendants' Motion To Dismiss For Failing To Comply With Fed. R. Civ. P. 12(b)(6) (D.I. 38) is **DENIED**.

2. Defendants' Motion For A Privacy Act Protective Order And For Permission To File Four Exhibits In Support Of Defendants' Motion To Dismiss Under Seal (D.I. 27) is **GRANTED**.

3. The parties shall file a stipulated Protective Order within **ten (10) days** of the date of this Memorandum Order, or if disputes remain, their competing proposals for a Protective Order with the areas of disagreement highlighted for adjudication by the Court.

August 24, 2006
Date


UNITED STATES DISTRICT JUDGE